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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,901	04/14/2004	Daniel James Winarski	TUC920040009US1	7571
65384	7590	05/08/2009		
HAMILTON & TERRILE, LLP			EXAMINER	
IBM Tucson			CHOE, YONG J	
P.O. BOX 203518				
AUSTIN, TX 78720			ART UNIT	PAPER NUMBER
			2185	
			NOTIFICATION DATE	DELIVERY MODE
			05/08/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tmunoz@hamiltontertile.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DANIEL JAMES WINARSKI; ROBERT GEORGE EMBERTY;  
CRAIG ANTHONY KLEIN; NILS HAUSTEIN

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Application 10/824,901  
Technology Center 2100

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Mailed: May 08, 2009

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Before KRISTA ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on December 17, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**APPEAL BRIEF, GROUNDS OF REJECTION**

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed April 30, 2008 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 6-8; 29 & 30 are rejected under 37 C.F.R. § 103(a) over Basham in view of Sokolov and further in view of Gill; whereas Appellant(s) have not indicated the grounds of rejection of these claims. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

**CONCLUSION**

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on April 30, 2008 defective;

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2) notify Appellant to file a paper properly addressing the  
Grounds of rejection of all claims; and,

3) for such action as may be appropriate.

If there are any questions pertaining to this Order, please contact the  
Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MV/MAT

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